

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DENNIS RICHARD WATTERS,

Petitioner,

v.

RON HAYNES ,

Respondent.

Case No. C17-00036-TSZ-SKV

ORDER LIFTING STAY AND
SETTING BRIEFING SCHEDULE

This is a 28 U.S.C. § 2254 habeas corpus action. By Order dated April 2017, the Hon. Mary Alice Theiler granted Respondent's motion to stay and abey these proceedings pending completion of petitioner's state court proceedings in *In re Watters*, Washington Court of Appeals Cause No. 75399-1-I. Judge Theiler ordered that:

within thirty days after issuance of the mandate or certificate of finality in the state court proceedings, the parties shall advise the Court whether the federal habeas action is ready to proceed. Once the parties have advised the Court that the stay may be lifted, the Court will set a new briefing schedule.

On November 30, 2021, the Court issued an order noting that a significant amount of time had passed since the Court's order staying proceedings and the Court had received no information from the parties regarding the status of Petitioner's state court proceedings. Dkt. 17.

1 Accordingly, the Court directed the parties to file a joint status report on or before
2 December 15, 2021, informing the Court regarding the current status of Petitioner's state court
3 proceedings. *Id.*

4 On December 14, 2021, Respondent filed a status report. Dkt. 18. The status report
5 stated that Respondent's counsel had sent Petitioner a letter indicating that it appeared the
6 relevant state court proceedings had concluded and a stay of the federal habeas proceedings was
7 no longer necessary. *Id.* The letter offered to a draft a joint status report in response to the Court
8 order. Respondent's counsel indicates he did not receive a response from Petitioner. *Id.*

9 Accordingly, Respondent filed his own status report indicating that because it appears state court
10 proceedings have concluded, the Court should lift the stay of the federal habeas proceedings and
11 direct Respondent to file an answer within 45 days. Petitioner has not responded to the Court's
12 November 30, 2021 order or, it appears, Respondent's counsel's letter, nor has he otherwise
13 indicated that he opposes lifting the stay in this case. Accordingly, the Court hereby ORDERS:

14 (1) The stay of proceedings is vacated.

15 (2) Within ***forty-five (45) days*** of the date of this Order, Respondent shall file and serve an
16 answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United
17 States District Courts. As part of such answer, Respondent shall state whether Petitioner
18 has exhausted available state remedies and whether an evidentiary hearing is necessary.
19 Respondent shall not file a dispositive motion in place of an answer without first showing
20 cause as to why an answer is inadequate. Respondent shall file the answer with the Clerk
21 of the Court and serve a copy of the answer on petitioner.

22 (3) The answer will be treated in accordance with LCR 7. Accordingly, on the face of the
23 answer, Respondent shall note it for consideration on the fourth Friday after filing.

Petitioner may file and serve a response not later than the Monday immediately preceding the Friday designated for consideration of the matter, and Respondent may file and serve a reply not later than the Friday designated for consideration of the matter.

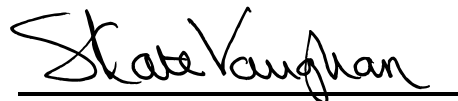
(4) All attorneys admitted to practice before this Court are required to file documents electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically. All filings must indicate in the upper right hand corner the name of the magistrate judge to whom the document is directed. Any document filed with the Court must be accompanied by proof that it has been served upon all parties that have entered a notice of appearance in the underlying matter. Petitioner shall indicate the date the document is submitted for e-filing as the date of service.

(5) Any request for court action shall be set forth in a motion, properly filed and served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of the motion itself and not in a separate document. The motion shall include in its caption (immediately below the title of the motion) a designation of the date the motion is to be noted for consideration on the Court's motion calendar.

(6) No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(7) The Clerk is directed to send copies of this order to the parties and to the Honorable Thomas S. Zilly.

Dated this 17th day of December, 2021.

A handwritten signature in black ink, reading "S. Kate Vaughan", written over a horizontal line.

S. KATE VAUGHAN
United States Magistrate Judge